IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Bail Appl..No. 4802 of 2007()

PETITIONER/ACCUSED:

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1. VENUGOPALAN, S/O. KRISHNAN NAIR,
   NILIMALA, KASARAGOD DISTRICT.

2. JOJI, S/O. JOY,
   KOTTANDAM, NILIMALA, KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT & STATE:

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1. STATE - REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE STATION HOUSE OFFICER,
   (CRIME NO.110 OF 2007 OF RAJAPURAM POLICE STATION)
   KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4802 of 2007

Dated this the 8th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 326 read with 34 I.P.C. The crux of the allegations is that on 19/7/2007 at about 6 p.m, the petitioners attacked the de facto complainant with dangerous weapons on account of prior animosity. The prior animosity allegedly arose out of an impression/feeling of the de facto complainant that the petitioners had insulted him by making allegations of theft against the first petitioner. The de facto complainant suffered serious fracture, that is fracture of bones of the legs. Investigation is in progress. The petitioners have been named in the F.I.R. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The de facto complainant has a shady past. He has many persons enemical towards him. He must have suffered the injury in some other

manner and is at present making false allegations against the petitioners. In these circumstances, directions under Section 438 Cr.P.C may be issued in favour of the petitioners, it is prayed.

3. The learned Public Prosecutor opposes the application. All the available indications satisfactorily point to an inference of guilt against the petitioners. The theory advanced that the allegations are being vexatiously raised against them because of prior animosity, is without any basis. The petitioners may be directed to resort to the ordinary and normal procedure of appearing before the investigating officer or the learned Magistrate having jurisdiction and then seek bail, submits the learned Public Prosecutor. I find merit in the opposition by the learned Public Prosecutor. The nature of injuries have been brought to my notice. The fact that the petitioners have been arrayed as accused in the F.I.R itself has also been considered by me. Suffice it to say that I do not find any features in this case which would justify the invocation of discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioners must appear before the

learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course.

3. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007